IN THE HIGH COURT OF JUDICATURE
AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

MISC. CRIMINAL APPLICATION NO.5879 OF 2005
IN
CRIMINAL APPEAL NO.417 OF 2005

Mr.Chetan Kundanmal Shah & Anr ...Applicants
Vs.
The State of Maharashtra ...Respondent
And
Chagan Nanaji Ghanchi & Ors. ...Accused

Mr.Pradhan with Miss. Solanki i/b. M/s. Kiran Jain & Co. for Applicants
Smt. P.H.Kantharia A.P.P for the State

CORAM: SHRI J.N.PATEL &
SMT. ROSHAN DALVI, JJ.
DATED: 21ST JULY, 2006

P.C.

1. This application is made by the complainant for return of a part of the property stated to have been robbed by the accused, being certain items of jewellery weighing about 1954.91 gms.

2. The incident took place on 12th October, 2001. The judgment of the trial Court was delivered on 23rd January, 2004. The accused have been in custody.

3. From amongst the articles stated to have been robbed by the accused are several jewellery items taken on record of the case by the learned trial Judge as exhibits 4 to 28. These exhibits are reflected and specifically described in the judgment.

4. The accused have not claimed these articles. The accused in fact applied for hearing of their appeal out of turn. After considering their application upon seeing the roznama in the case and the specific notes made by the learned trial Judge in the evidence itself, it has been decided by us that the case does not require to be taken up out of turn. It will therefore, take some time before the appeal is disposed of.

5. We find it just and proper to return the articles claimed by the Complainant which was stated to be robbed albeit upon certain conditions. Hence, the following order:

O R D E R

1. The articles shown as exhibits 4 to 28 shall be returned to the complainant after the Registrar (Judicial), High Court Bombay takes photographs of the articles and after the articles are valued by a Valuer on the panel of this Court or the trial Court.

2. The Complainant shall execute Security Bond to the extent of the value of the articles and give an undertaking not to create any encumberance thereupon by way of hypothecation, pledge or otherwise and/or convert the articles in any form.

Order accordingly.

(SMT.ROSHAN DALVI, J.) **(SHRI. J.N. PATEL, J.)**